IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

WP(C).No. 5461 of 2007(A)

PETITIONER:

SAJITH MOHAN, T.C.25/2121,
MANJALIKULAM ROAD, THAMPANOOR,
THIRUVANANTHAPURAM.

BY ADV. SRI.N.SUGATHAN
SMT.VARSHA BHASKAR

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF HIGHER SECONDARY
EDUCATION, HOUSING BOARD BUILDING,
THIRUVANANTHAPURAM-1.

BY GOVERNMENT PLEADER SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

W.P.(C).No.5461 OF 2007

Dated this the 7th day of March, 2007

JUDGMENT

Case of the petitioner in brief is as follows:

Petitioner was included in the rank list for appointment as Higher Secondary School Teacher in Computer Science/Computer Application. On the basis of the ranking, P.S.C. issued advice letter. Petitioner received Ext.P2 advice letter, but he was not appointed. It is stated that second respondent is deliberately delaying to issue appointment orders so as to favour the provisional promotees and those engaged on daily wages.

2. A statement is filed, wherein it is inter-alia stated as follows:

> " The above said list received in this office on 07-02-2007. The processes of appointment shall take minimum to weeks. There are only few working days during the academic years 2006-07. The closure of

schools is on 31-03-2007. Almost all the portions of syllabus were covered in the 1st half of the February 2007 and the practical examinations have been started in all Higher Secondary Schools. The Public Examinations will start on 14-03-2007. Before the commencement of the second year examinations, first year annual examination should be completed. After 31-03-2007 two months (April, May) are vacation for teaching category. At the fag end of the academic year, there is no need to appoint anybody in the teaching category.

In Kerala Educational Rules, Rule 7A(3) it is clearly stated that vacancies, the duration of which is two months or less shall not be filled up by any appointment. Subsequently, Government have also issued an order No.G.O.(MS)No.162/91/G.Edn. dtd. 2-10-91 wherein Government have specified that vacancies the duration of which is two months or less shall not be filled up by any appointments. Government have got specific intention of avoiding unnecessary expenditure to the state exchequer in issuing such an order. Making appointments at the fag end of the academic year will entail additional financial burden to Government. There is no meaning

in arguing that the stipulation is applicable only to Aided Schools, as Government have issued the order with a view to cutting short the undue expenditure. Moreover, when an order is issued by Government, it has got a general purport and intention. It cannot be misinterpreted and underestimated.

It is submitted that 163 candidates were advised by KPSC on 19-01-2007. The appointment orders will be sent to the candidates from this office before three months from 19-01-2007 directing then to join duty at the beginning of the forth coming academic year. The maximum time limit allowed by the KPSC will end on 18-04-2007."

3. Having heard learned counsel for the petitioner and learned Government Pleader, the writ petition is disposed of with a direction to the second respondent to issue appointment order to the petitioner on the basis of Ext.P2 advice before 18-04-2007 so as to enable the petitioner to join duty on the re-opening of the school.

K.M.JOSEPH
JUDGE

sv.